

**REMARKS/ARGUMENTS**

Claims 1, 10, 11, 13, 16, 25, 26, and 27 are amended herein. Claims 1-29 are currently pending.

The courteous telephone interview granted applicant's undersigned attorney by Examiner Mais on October 23, 2006 is hereby respectfully acknowledged. The amendment to claim 1 presented herein was proposed to the Examiner. The Examiner generally agreed that the proposed amendment would overcome the rejection under 35 U.S.C. 102(e), however, he noted that a new search would be required.

Claims 1-29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,977,898 (Miriyyala). Applicant respectfully requests reconsideration of the rejection.

Claim 1 recites a method for forwarding data across a network that includes assigning a priority level to the data and determining a compression level for the data based on the priority level. The priority level is based on a delay tolerance of the data. Claim 1 has been amended to clarify that priority levels are assigned to data supporting both real time and non-real time communications.

Miriyyala discloses a method for supporting high priority calls on a congested WAN link. According to the disclosed method, when an incoming high priority call is recognized, if there is insufficient bandwidth available on a communication link to accommodate the new call, a new compression scheme is adopted on one or more existing voice channels so as to free up bandwidth on the communication link to support the new call. Miriyyala is only concerned with voice calls (real time communication). Whereas applicant's invention assigns a priority level based on a delay tolerance of the data and distinguishes between data that supports real time communication (e.g., voice calls) and data that does not support real time communication (e.g., text, email, web browsing).

Applicant's invention, as set forth in the claims, takes advantage of the capacity increasing capabilities of data compression technology while protecting delay sensitive traffic (e.g., real time voice or video communication) from the adverse consequences of compression processing calculations. Since priority levels are assigned to both real time and non-real time communications, the system can take into account that the processing necessary to perform compression adds a delay that may be insignificant for certain types of data traffic such as e-mail, tolerable but undesirable for web downloading, and intolerable for real time voice or video communications, for example.

Accordingly, claim 1, as amended, is submitted as not anticipated by Miriyala.

Claims 2-9 and 28-29 each depend either directly or indirectly from claim 1 and are, therefore, each believed to be allowable over Miriyala for at least the reasons set forth above with respect to claim 1. Each of these dependent claims recites additional limitations which, when considered in light of claim 1, are believed to further distinguish the claimed invention over the art of record.

Claim 9 is further submitted as patentable over the Miriyala patent which is directed to voice calls transmitted across a link using ATM (cell based) communication rather than forwarding data comprising a packet, as set forth in claim 9.

Claims 10, 11, 16, and 25-27, as amended, are submitted as patentable over Miriyala for the reasons discussed above with respect to claim 1. Each of these independent claims, in addition to any dependent claims which depend therefrom, include additional limitations which are believed to further distinguish the claimed invention over the art of record.

Claims 10, 14, 23, 25, and 27 are further submitted as not anticipated by Miriyala for the reasons discussed above with respect to claim 9.

Claim 13 is further submitted as not anticipated by the Miriyala patent because it does not disclose a network congestion estimator. Claim 13 has been amended to clarify that the network congestion estimator estimates network congestion. Since

Miriyala is directed to voice channels, the traffic congestion is known, therefore there is no need to estimate congestion.

For the foregoing reasons, Applicant believes that all of the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 399-5608.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'C. Kaplan', written over a horizontal line.

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